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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,467	02/12/2004	Jochen Hofmann	51900/DBP/M521	5554

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/779,467	Applicant(s) HOFMANN ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 8, 9, 13 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 10-12, 14-27, 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 6,412,357 B2 to Billen and U.S. Patent No. 6,813,966 B2 to Dukart. Rejections based on the newly cited reference(s) follow.

Claim Objections

1. Claims 1, 24, 25, and 29 are objected to because of the following informalities: "constituting" or "constitutes" should respectively read --comprising-- or --comprises-- as constitute is closed-type language. Appropriate correction is required.
2. Claim 27 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation of claim 27 is recited in claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-3, 5, 10-12, 14, 16-24, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Billen.

Billen discloses a seat assembly that includes all the limitations recited in claims 1-3, 5, 10-12, 14, 16-24, 26, and 27. Billen shows a seat assembly having a seat element 210,212 (see Fig. 4) constituting a component of a seat structure, an at least partially hollow cylindrical drive element 220,236 pivotably connected to the seat element constituting a component of a displacement arrangement for an adjustable part of the seat, and a weight sensor 218,222 (see column 6, lines 20-27) capable of detecting at least one of seat occupancy and the weight of a seat user wherein the drive element is pivotably mounted on the seat element via a mounting section of the weight sensor, the mounting section extends axially inside at least one of the drive element and an element nonpivotably connected thereto, the drive element is pivotably mounted on the weight sensor through a mounting element 230 arranged on the drive element, the mounting element capable of being preassembled on the weight sensor using an axial locking element before the mounting element is nonpivotably connected to the drive element, the mounting section serves for radial mounting of the drive element, a locking element 234 for axial retention of the drive element arranged on the mounting section, the mounting section serves for radial and axial mounting of the drive element, the weight sensor being electrically operated and detects bending stresses, the weight sensor is arranged nonpivotably on the seat element via a lock nut 24 (see Fig. 1), the weight sensor being designed in two parts nonpivotably connected to each other, a sensor part is nonpivotably fixed to the seat element, the drive element and the weight

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sensor constitute a preassembled assembly capable of attaching to the seat element, and the seat element is made up of a mounting angle attached to part of the seat structure.

5. Claims 1-3, 5, 10-12, 14-24, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Dukart.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Dukart discloses a seat assembly that includes all the limitations recited in claims 1-3, 5, 10-12, 14-24, and 27. Dukart shows a seat assembly having a seat element 3,7 (see Fig. 1) constituting a component of a seat structure, an at least partially hollow cylindrical drive element 6,9 pivotably connected to the seat element constituting a component of a displacement arrangement for an adjustable part of the seat, and a weight sensor 2,4,5,11 capable of detecting at least one of seat occupancy and the weight of a seat user wherein the drive element is pivotably mounted on the seat element via a mounting section of the weight sensor, the mounting section extends axially inside at least one of the drive element and an element nonpivotably connected thereto, the drive element is pivotably mounted on the weight sensor through a mounting element 10 arranged on the drive element, the mounting element capable of being preassembled on the weight sensor using an axial locking element before the mounting element is nonpivotably connected to the drive element, the mounting section serves for radial mounting of the drive element, a locking element (see Fig. 2) for axial

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retention of the drive element arranged on the mounting section, the mounting section serves for radial and axial mounting of the drive element, toothed zones mesh for mounting the drive element on the mounting section, the weight sensor being electrically operated and detects bending stresses, the weight sensor is arranged nonpivotably on the seat element via a lock nut 25, the weight sensor being designed in two parts nonpivotably connected to each other, a sensor part is nonpivotably fixed to the seat element, and the drive element and the weight sensor constitute a preassembled assembly capable of attaching to the seat element.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Billen.

Although the material connection of the tubular drive element and the mounting element is not specifically recited, modifying the material connection would have been obvious at the time of Applicant's invention because the use of preferred materials discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the material connection of the tubular drive element and the mounting element since the Applicant has not disclosed that having the specific material connection solves any stated problem or is

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for any particular purpose and it appears that the connection of the tubular drive and the mounting element would perform equally well with any known material used in the art.

8. Claims 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billen in view of U.S. Publication No. 2003/0067196 A1 to Sakamoto et al.

Billen discloses a seat that is basically that same as that recited in claims 25 and 29 except that the tubular drive element lacks a transverse tube, as recited in the claims. Sakamoto et al. show a seat similar to that of Billen wherein the tubular drive element 20b (Fig. 1) has a transverse tube 28 (Fig. 4) running from one longitudinal side of the seat to the other, and a locking nut 27a (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Billen such that the drive element has a transverse tube running from one longitudinal side of the seat to the other, such as the seat disclosed in Sakamoto et al. One would have been motivated to make such a modification in view of the suggestion in Sakamoto et al. that the transverse tube connects seat element spaced under the seat to maintain a predetermined width, and the lock nut and thread are used for securing connection of disparate pieces.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The following patents are cited to further show the state of the art with respect to seat assemblies:


U.S. Pat. No. 6,986,293 B2 to Dukart U.S. Pat. No. 4,982,613 to Becker

U.S. Pat. No. 5,684,254 to Nakazaki et al. U.S. Pat. No. 7,073,391 B2 to Dukart

DE Pat. No. 3515126 A1 to Hoefer et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
March 17, 2007